

# Senate Study Bill 1147 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON SENG)

## A BILL FOR

1 An Act relating to motor fuel, including ethanol blended  
2 gasoline and biodiesel or biodiesel blended motor fuel, by  
3 providing for regulation and taxes.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

REGULATION OF MOTOR FUEL

Section 1. Section 214A.1, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 11A. "*Flexible fuel vehicle*" means a motor vehicle which is powered by an engine capable of operating using E-85 gasoline.

NEW SUBSECTION. 16A. "*Nonblended gasoline*" means gasoline other than ethanol blended gasoline.

Sec. 2. Section 214A.2, subsection 4, paragraph b, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Biodiesel blended fuel classified as from B-6 through B-20 must conform to A.S.T.M. international specification D7467 or a successor A.S.T.M. international specification as established by rules adopted by the department.

Sec. 3. Section 214A.16, subsection 1, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

1. A motor fuel pump shall be affixed with a decal identifying the motor fuel that it dispenses, as required in this subsection.

a. If the motor fuel is gasoline, the following shall apply:

(1) For gasoline not blended with ethanol, the decal shall identify it as nonblended gasoline.

(2) For gasoline classified as higher than standard ethanol blended gasoline pursuant to section 214A.2, the decal shall identify it as being for use in flexible fuel vehicles only.

b. If the motor fuel is biodiesel fuel, the decal shall identify the biodiesel fuel as provided in 16 C.F.R. pt. 306.

Sec. 4. Section 422.11N, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. "*E-85 gasoline*", "*ethanol*", "*ethanol blended gasoline*", "*gasoline*", "*flexible fuel vehicle*", and "*retail dealer*" mean the same as defined in section 214A.1.

1     Sec. 5. Section 422.11N, subsection 1, paragraph b, Code  
2 2011, is amended by striking the paragraph.

3     Sec. 6. Section 452A.2, subsection 18, Code 2011, is amended  
4 to read as follows:

5     18. "*Flexible fuel vehicle*" means ~~a motor vehicle as defined~~  
6 ~~in section 321M.1 which is powered by an engine capable of~~  
7 ~~operating using E-85 gasoline~~ the same as defined in section  
8 214A.1.

9

DIVISION II

10                   TAXES IMPOSED UPON BIODIESEL FUEL

11     Sec. 7. Section 452A.2, Code 2011, is amended by adding the  
12 following new subsection:

13     NEW SUBSECTION. 9A. "*Diesel fuel*" means the same as defined  
14 in section 214A.1.

15     Sec. 8. Section 452A.2, subsection 29, Code 2011, is amended  
16 to read as follows:

17     29. "*Nonterminal storage facility*" means a facility where  
18 motor fuel or special fuel, other than liquefied petroleum  
19 gas, is stored that is not supplied by a pipeline or a marine  
20 vessel. "*Nonterminal storage facility*" includes a facility that  
21 manufactures products such as ~~ethanol as defined in section~~  
22 ~~214A.1,~~ biofuel, blend stocks, or additives which may be used  
23 as motor fuel or special fuel, other than liquefied petroleum  
24 gas, for operating motor vehicles or aircraft.

25     Sec. 9. Section 452A.3, subsection 3, Code 2011, is amended  
26 to read as follows:

27     3. a. For the privilege of operating motor vehicles or  
28 aircraft in this state, there is imposed an excise tax on the  
29 use of special fuel in a motor vehicle or aircraft.

30     (1) The tax rate on special fuel for diesel engines of motor  
31 vehicles is twenty-two and one-half cents per gallon. The tax  
32 rate on biodiesel for diesel engines of motor vehicles shall  
33 be determined on a volume basis with the gross metered gallons  
34 adjusted to sixty degrees Fahrenheit.

35     (2) The rate of tax on special fuel for aircraft is three

1 cents per gallon.

2     (3) On all other special fuel, unless otherwise specified in  
3 this section, the per gallon rate is the same as the motor fuel  
4 tax.

5     b. Indelible dye meeting United States environmental  
6 protection agency and internal revenue service regulations  
7 must be added to special fuel before or upon withdrawal at a  
8 terminal or refinery rack for that special fuel to be exempt  
9 from tax and the dyed special fuel may be used only for an  
10 exempt purpose.

11     Sec. 10. Section 452A.17, subsection 1, paragraph a, Code  
12 2011, is amended by adding the following new subparagraph:

13     NEW SUBPARAGRAPH. (11) Diesel fuel used by a nonterminal  
14 storage facility to blend with biodiesel to produce biodiesel  
15 blended fuel, if the biodiesel blended fuel is distributed  
16 to a blender licensed pursuant to section 452A.6 who is also  
17 required to pay the excise tax on the same diesel fuel.

18     Sec. 11. Section 452A.86, Code 2011, is amended to read as  
19 follows:

20     **452A.86 Method of determining gallonage.**

21     1. The exclusive method of determining gallonage of  
22 any purchases or sales of motor fuel, undyed special fuel,  
23 compressed natural gas, or liquefied petroleum gas as defined  
24 in this chapter and distillate fuels shall be on a gross volume  
25 basis. A temperature-adjusted or other method shall not be  
26 used, except as it applies to biodiesel, liquefied petroleum  
27 gas, and or the sale or exchange of petroleum products between  
28 petroleum refiners. All invoices, bills of lading, or other  
29 records of sale or purchase and all returns or records required  
30 to be made, kept, and maintained by a supplier, restrictive  
31 supplier, importer, exporter, blender, or compressed natural  
32 gas or liquefied petroleum gas dealer or user shall be made,  
33 kept, and maintained on the gross volume basis.

34     2. For purposes of this section, "*distillate fuels*" means  
35 any fuel oil, gas oil, topped crude oil, or other petroleum

1 oils derived by refining or processing crude oil or unfinished  
2 oils which have a boiling range at atmospheric pressure which  
3 falls completely or in part between five hundred fifty and  
4 twelve hundred degrees Fahrenheit.

5 DIVISION III

6 INCOME TAX CREDITS FOR RETAIL DEALERS OF RENEWABLE FUEL

7 Sec. 12. Section 422.11N, subsection 3, Code 2011, is  
8 amended by adding the following new paragraph:

9 NEW PARAGRAPH. c. The department has received the retail  
10 dealer's motor fuel gallonage report for the immediately prior  
11 determination period beginning January 1 and ending December  
12 31, as required in section 452A.33. The report must have been  
13 received by the department on or before the report's due date.  
14 If the retail dealer submits the report on a quarterly or  
15 monthly basis as provided in that section, the department must  
16 have received all such reports by the same due date.

17 Sec. 13. Section 422.11O, subsection 2, Code 2011, is  
18 amended by adding the following new paragraph:

19 NEW PARAGRAPH. c. The department has received the retail  
20 dealer's motor fuel gallonage report for the immediately prior  
21 determination period beginning January 1 and ending December  
22 31, as required in section 452A.33. The report must have been  
23 received by the department on or before the report's due date.  
24 If the retail dealer submits the report on a quarterly or  
25 monthly basis as provided in that section, the department must  
26 have received all such reports by the same due date.

27 Sec. 14. Section 422.11P, subsection 2, paragraph a, Code  
28 2011, is amended by adding the following new subparagraph:

29 NEW SUBPARAGRAPH. (4) The department has received the  
30 retail dealer's motor fuel gallonage report for the immediately  
31 prior determination period beginning January 1 and ending  
32 December 31, as required in section 452A.33. The report  
33 must have been received by the department on or before the  
34 report's due date. If the retail dealer submits the report on  
35 a quarterly or monthly basis as provided in that section, the

1 department must have received all such reports by the same due  
2 date.

3 Sec. 15. Section 452A.33, subsection 1, paragraph a,  
4 unnumbered paragraph 1, Code 2011, is amended to read as  
5 follows:

6 Each retail dealer shall submit a motor fuel gallonage  
7 report, detailing its total motor fuel gallonage for a  
8 determination period as follows:

9 EXPLANATION

10 GENERAL. This bill amends provisions in a number of Code  
11 chapters relating to motor fuel sold in this state, including  
12 motor fuel that contains a percentage of a biofuel (biodiesel  
13 or ethanol).

14 REGULATION OF MOTOR FUEL. The bill amends several  
15 provisions in Code chapter 214A, which regulates the sale  
16 of motor fuel by the department of agriculture and land  
17 stewardship (DALS). The bill establishes a standard for  
18 biodiesel blended fuel based on A.S.T.M. international  
19 specifications. It also rewrites a provision that requires  
20 that a motor fuel pump be affixed with a decal (label)  
21 informing the traveling public whether it is dispensing a motor  
22 fuel containing ethanol or biodiesel. It retains the label  
23 requirement for a motor fuel pump dispensing E-85 gasoline  
24 for flexible fuel vehicles or biodiesel blended fuel for  
25 diesel-powered motor vehicles, removes a provision requiring a  
26 label for a motor fuel pump dispensing other types of ethanol  
27 blended fuel (standard ethanol blended gasoline), and requires  
28 a label for a motor fuel pump dispensing gasoline without an  
29 ethanol component (nonblended gasoline).

30 EXCISE TAXES IMPOSED UPON BIODIESEL FUEL. The bill amends  
31 provisions in Code chapter 452A which relate to an excise tax  
32 imposed upon biodiesel fuel. Generally, an excise tax is  
33 imposed on each gallon of motor fuel, including biodiesel fuel  
34 (Code section 452A.3) based on a gross volume basis without  
35 adjustment (Code section 452A.86). The bill does not directly

1 change the excise tax imposed on biodiesel fuel, but changes  
2 how the gallonage is calculated at the meter, by requiring that  
3 the excise tax be assessed after adjusting the biodiesel's  
4 temperature to 60 degrees Fahrenheit.

5 The bill also provides for a refund of excise taxes paid  
6 on diesel fuel by nonterminal storage facilities. A person  
7 who manufactures a biofuel, including ethanol or biodiesel for  
8 distribution, is classified as a nonterminal storage facility  
9 (Code section 452A.2). A nonterminal storage facility is  
10 required to pay an excise tax on diesel fuel used in producing  
11 biodiesel blended fuel. The bill provides that the nonterminal  
12 storage facility is entitled to a refund of the excise tax paid  
13 on diesel fuel if the biodiesel blended fuel is distributed  
14 to a licensed blender (Code section 452A.6) who must pay the  
15 excise tax on that same diesel fuel.

16 INCOME TAX CREDITS FOR RETAIL DEALERS OF MOTOR FUEL WHICH  
17 CONTAINS ETHANOL OR BIODIESEL. Code chapter 422 establishes a  
18 tax credit for the promotion of ethanol blended gasoline (Code  
19 sections 422.11N and 422.33(11A)), E-85 gasoline (Code sections  
20 422.11O and 422.33(11B)), and biodiesel blended motor fuel  
21 (Code sections 422.11P and 422.33(11C)). The bill provides  
22 that in order for a retail dealer to claim a tax credit, it must  
23 comply with an existing statute that requires a retail dealer  
24 to submit a motor fuel gallonage report (Code section 452A.33)  
25 for its latest determination period (calendar year). The  
26 report includes the retail dealer's total gasoline gallonage,  
27 ethanol gallonage, ethanol blended gasoline gallonage, E-85  
28 gasoline gallonage, diesel gallonage, and biodiesel gallonage  
29 for each motor fuel site or other permanent or temporary  
30 location owned or operated by the retail dealer.